

**STAFF REPORT
ZONING BOARD OF ADJUSTMENT
Thursday, October 24, 2019
9:00 a.m.
Room 105 Courthouse Annex
Cascade County Commissioners Chambers**

Variance request

Subject Property Information

Name & Address of Applicant	Crown Castle 1505 Westlake Ave N, #800 Seattle, WE 98109
Name & Address of Owner	Creed Miles Evans PO Box 1542 Great Falls, MT 59403-1542
Geo Code:	02-3015-28-1-02-01-0000
Parcel Number:	0002483130
Existing Zoning:	Suburban Residential 1 (SR1)
Legal Description:	Mk 14 in NW ¼ NE ¼ Section 28, Township 20 North, Range 3 East
Requested Action and Purpose:	Variance request to allow an additional height extension on a pre-existing non- conforming Wireless Communication Facility (Tower)
Total Land Area:	10.000 Acres
Adjacent Land Uses & Zoning:	North: Suburban Residential 1 South: Suburban Residential 1 West: Suburban Residential 1 East: Suburban Residential 1
Current Land Use:	Wireless Communication Facilities
Applicable Regulations:	Sections 8.8, 9.5, and 16.1 of the Cascade County Zoning Regulations

Special Information

1. Section 8.8 of the Cascade County Zoning Regulations provides the following required setbacks for tower and studio facilities:

(1) ...; the setback to property boundaries for all other tower/antenna structures must be the height of the tower plus twenty (20) feet (example: a 100 foot tall tower must be

120 feet from all property boundaries).

2. Section 16.1 of the Cascade County Zoning Regulations provides the following height restrictions:

16.1 MAFB RUNWAY AREA

The following height limits are based on the elevation of the helicopter runway at Malmstrom (3,526 ft.) which is based on the North American Vertical Datum of 1988 (NAVD 88).

...

MOD-F (Outer Horizontal Surface)

No structures greater than 500 feet in height.

...

3. The following definition is taken from the Cascade County Zoning Regulations:

VARIANCE

A variance is a relaxation of the terms of these regulations where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship. As used in these regulations, a variance is authorized only for height, area, and size of structure, size of yards and open spaces, signage, landscaping, or as otherwise specifically provided for in these regulations. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or adjoining zoning districts.

4. Section 9.5.4 of the Cascade County Zoning Regulations requires the concurring vote of three members of the Zoning Board of Adjustment in order to approve a variance request.
5. The tower is located on a 10 acre parcel and currently hosts 3 other towers. The parcel was created by deed and does not have an associated Certificate of Survey or Subdivision Plat. The tower is a pre-existing non-conforming use.
6. Malmstrom Air Force Base, the Cascade County Public Works Department, the Great Falls Airport Authority, Montana Air National Guard, and the City of Great Falls Public Works Department were solicited for comment on October 7. As of publishing this report, staff has received no comments of concern. County Public Works responded and did not express concern with this project.

Analysis

The applicant is requesting a variance to allow a twenty (25) foot extension to be added to an existing telecommunications tower, increasing overall height from approximately 103 feet to 128 feet.

(1) The variance is not contrary to the public interest.

The Applicant responded: This request to provide better wireless service to Cascade County is in the best interest of the community by providing improved technology access to all. The ability to have a choice of carriers that can provide comparable service is important to freedom of individual choice as well as to the spirit of consumer competition.

The installation will allow for an expansion of services available to the public. T-Mobile's network strength and coverage is vital to keeping the public connected in today's world.

This request has been reviewed by the FAA and determined to not be a hazard. The temporary use of a crane for the construction has also been reviewed by the FAA and approved up to 160'. The Federal Order (Spectrum Act) this Eligible Facilities Request is being made under was implemented to better serve the public with increased wireless connectivity for personal, and importantly, emergency connectivity.

The proposed project does not "substantially change the physical dimensions" of the communications site, as defined in the Final Rule of p/ 1269, Subpart CC (b)(7).

Staff believes the variance will not be contrary to the public interest. The tower is already in place and provides a valuable resource to the general public. The extension will create more competition in the telecommunications industry and will be an addition comparable to about 25% of the existing structure.

(2) A literal enforcement would result in an unnecessary hardship, owing to conditions unique to the property.

The Applicant Responded: The proposed increase in tower height will allow for the T-Mobile network in the subject coverage area. Any reduction in height would prohibit T-Mobile's installation on the subject site and cause a lapse or reduction in service. The variance request is to allow the height increase understanding that Cascade County code requires a setback of tower height +1-% which cannot be met. The tower is already existing, so to move it to another location on the property to meet the setback would be a hardship. Additionally, the height increase is allowed under the Federal Order which supersedes the local code.

Staff acknowledges that the existing non-conforming use of this tower does not meet the required setbacks under the current version of the County's zoning regulations. However, removing or relocating this structure would be impractical and detrimental to existing telecommunications services. Allowing this structure to be extended as the applicant proposes would eliminate the need for an additional tower to be constructed in the area and would provide a more immediate improvement to services.

(3) The spirit of this Section would be observed and substantial justice done by granting the variance.

The Applicant Responded: The Spectrum Act was implemented post 0-11 to ensure that wireless connectivity, especially in emergency situations, was available and kept up with the growing demand for carrier capacity.

A rigorous Structural Analysis has been performed and is included with this application to support that T-Mobile proposing to build this facility extension under the 2012 IBC as required by the State of Montana. This request adheres to the thresholds set forth in Section 6409(a) of f

the Federal Order, as addressed in the Conformance Application. Justice can only be done by granting this request.

Staff believes that substantial justice would be done by granting the variance as the existing non-conforming use would be expanded, however would do so in a way that will create minimal visual disturbance and preserve other areas of land from further development, in addition to being in close proximity to other existing towers. The applicant has represented that the ground elevation of this project is at 3698 ft, and lies in the MOD-F (Outer Horizontal Surface) area for the Malmstrom Air Force Base Runway. County Regulations in Section 16.1 state that no structure in this zone may extend above 500 feet from the height of the runway, declared at 3,526 feet. $3698 + 128 = \mathbf{3826}$, less than the restricted height of $3526 + 500 = \mathbf{4026}$ feet. Given the overall proposed height of the structure, Malmstrom Air Force Base was notified, but did not provide a comment.

Motions:

The following motions are provided for the Board's consideration:

1. "I move the variance to allow for a height extension (25 feet) of an existing telecommunications tower on Mk14 in the NW ¼ NE ¼ Section 28 Township 20 North Range 3 East be **denied**,"
or
2. "I move the variance to allow for a height extension (25 feet) to of an existing telecommunications tower on Mk14 in the NW ¼ NE ¼ Section 28 Township 20 North Range 3 East be **approved** subject to the following condition:
 - a. The applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.
 - b. Addition complies with standards set by section 8.8 of the Cascade County Zoning Regulations.

Attachments: Variance Application
 Tower Specifications
 Vicinity Map